

Body Worn Camera

426.1 PURPOSE AND SCOPE

The Newberg-Dundee Police Department recognizes the importance of transparent policing that protects the community and the police. The department further recognizes that video images cannot always depict the entire scene or incident in the way that it may have been perceived or experienced by any person present. The department recognizes video recordings have at least the following limitations:

- a) Body-worn video cameras may capture something that the wearer of the camera did not see; conversely, there may be a viewpoint that the wearer saw that was not captured by the body-worn camera.
- b) The focal point of the camera may not be the focal point of the person wearing the camera.
- c) Body-worn video cannot capture tactile responses such as a subject that tenses their muscles or body on contact.
- d) Due to environmental circumstances, body-worn cameras in some circumstances may see more than the human eye, and yet on other occasions the video may capture less.
- e) Video can be slowed down and viewed frame by frame, but this is rarely how the wearer of body-worn cameras would have experienced the situation.
- f) Video cannot capture the physiological or psychological phenomena that a person may experience during a high stress situation. The camera will not suffer from "tunnel vision" or auditory exclusion.
- g) Body-worn camera video should be considered additional evidence, but it is only one piece of evidence and is not a substitute for a complete investigation of any incident.

The body-worn camera system is an on-body worn audio and video recording system assigned to an officer as an additional means of documenting specific incidents in the field while on-duty. The purpose of this policy is to establish guidelines and procedures related to the use, management, storage, and retrieval of the data stored on the body-worn camera. The department has adopted the use of body-worn cameras to accomplish several objectives, including but not limited to:

- a) To capture crimes in-progress and to capture and maintain video and audio evidence for presentation in court;
- b) To enhance officer safety;
- c) To enhance officer reporting, evidence collection, and courtroom testimony;
- d) To document the initial police response, the discovery of evidentiary items and the actions of the police conducting an investigation, including calls for service, or self-initiated police contacts that could result in enforcement action;

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- e) To mitigate potentially confrontational interactions with members of the community through the presence of the body-worn camera;
- f) To assist in resolving complaints made against officers during their police duties;
- g) To enhance transparency to the community;
- h) For professional standards review and investigation in resolving citizen complaints and potential civil actions related to the department.

426.2 DEFINITIONS

Body-worn camera (BWC) – a wearable camera system with multiple mounting options on an officer's uniform designed to record interactions by officers while on-duty. The recordings create audio, video, photographs and metadata files for storage.

Metadata – includes any digital files of data that are embedded in the information of an audio and video file that authenticates the data file. This data includes, but is not limited to, date/time, GPS coordinates, incidents category, activation information, and any data manually entered by the user.

426.3 ASSIGNMENT OF BODY-WORN CAMERAS

Newberg-Dundee Police officers, at the rank of sergeant and below, while on-duty and assigned to the following positions, will wear and use a body-worn camera;

- a) Any uniform assignment where the officer is engaged with members of the community on calls for service or a proactive self-dispatched role;
- b) Any assignment, where the officer will be conducting enforcement work while in a uniform or specialized altered uniform.
- c) Any assignment, where it is deemed that the wearing of a body-worn camera would be beneficial for the assignment as designated by the Chief of Police or designee.
- d) When working in plain clothes detectives may use body-worn cameras at their discretion. The use of a body worn camera is required when taking enforcement action or working in uniform.

426.4 MEMBERS RESPONSIBILITIES

Before using a body-worn camera, officers must receive department approved training on the proper operation, use and care of equipment. Training shall be provided for members at periodic intervals to ensure the continued effective use of the equipment, proper calibration, and performance, and to incorporate changes, updates, and revisions to policy or equipment.

Officers assigned a body-worn camera shall be responsible for the following:

- a) Before the use of a body-worn camera, the officer must inspect and test the unit at the beginning of each new shift to verify the proper functioning of the unit;

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- b) Officers will ensure the body-worn camera has a fully charged battery;
- c) At the beginning of each shift, officers shall attach the body-worn camera to their uniform consistent with training;
- d) If at any time the unit is known to be malfunctioning or not recording as it should, the officer shall immediately notify their supervisor and seek a replacement at the earliest practicable time;
- e) If a body-worn camera is lost or damaged, upon discovery, the officer shall immediately notify their supervisor and it shall be documented in a police report;
- f) Officers shall not remove, dismantle, or tamper with any hardware/software component or part of the body-worn camera;
- g) Officers will never edit, alter, erase, duplicate, copy or otherwise distribute in any manner body- worn camera recordings without proper authorization;
- h) Officers shall not use personally-owned body-worn cameras, except with the written approval of the Chief of Police or their designee;
- i) Officers shall not download metadata from their body-worn camera at their home. Metadata should only be downloaded from a department-approved docking station, or department-approved WiFi locations, unless approved by a supervisor.

426.5 BODY-WORN CAMERA OPERATION ACTIVATION/DEACTIVATION REQUIREMENTS

This policy is not intended to describe every possible situation in which an officer should activate the body-worn camera. It is understood that some situations will not clearly start as necessitating the body- worn camera activation and not all events will have a clear ending for when the body-worn camera should be deactivated. Officers are expected to follow policy, ethical and legal discretion as well as good judgment when activating and deactivating the body-worn camera. In the following types of situations, officers shall ensure their body-worn camera is activated and recording as soon as safe and practicable, unless the activation could be reasonably cause jeopardy to the officer or any other person or that it would unreasonably impair a criminal investigation:

- a) Beginning when an officer develops reasonable suspicion or probable cause to believe that a crime or violation has occurred, is occurring, or will occur and the law enforcement officer begins to make contact with the person suspected of committing the offense, the body-worn camera shall be set to record;
- b) All enforcement and investigative contacts including stops and field interview (FI) situations;
- c) All calls that involve suicidal individuals;
- d) All calls where the officer reasonably believes a mental illness or mental crisis is involved;

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- e) Traffic contacts, including but not limited to, stops for traffic violations, stranded motorist assistance, and all crime interdiction stops;
- f) Self-initiated activity that may be investigatory or enforcement orientated in nature;
- g) Instances of forced entry by law enforcement;
- h) If it is safe to do so, any contact that becomes adversarial after the initial contact in a situation that would not otherwise require body-worn camera activation;
- i) To assist in documenting warrantless or consensual search of individuals, vehicles, buildings, or other places;

The body-worn camera will subsequently cease recording no sooner than the termination of the Officer's participation in any of these required activation events. This should be when the officer has left the scene or encounter and does not anticipate any further involvement in the event.

If there is a delay in the activation of the body-worn camera during a situation in which the officers are required to have the device activated, the officer shall document the reason for the delay in a police report or CAD incident notes if no police report is generated. At a minimum, the documentation shall include if the failure to activate or record was due to a manual deactivation or an equipment failure.

If an officer fails to activate or record an incident as required by this policy, the member shall also notify a supervisor of this failure, and include the notification in the documentation with a report or CAD incident notes. If an officer is delayed in activating or recording an incident as required by this policy, the member shall document the delay and the reason(s) for it within a report or CAD incident notes.

In the following situations, officers should activate their body-worn camera to record:

- j) To assist in recording searches and location and seizure of evidence;
- k) Transport of persons who are not in custody;
- l) Anytime a person alleges a contact, investigation, or failure to provide service is based upon bias by the officer or by the Newberg-Dundee Police Department;
- m) Any other time an officer believes it would be appropriate or valuable to record an incident.

Once the body-worn camera is activated in one of the situations (j through m), the body-worn camera shall not be deactivated until the end of the contact.

At no time is an officer expected to jeopardize their safety to activate a body-worn camera.

Recording may be stopped during significant periods of inactivity such as report writing, extended traffic control, or other breaks from direct participation in an incident. If a body-worn camera is deactivated prior to the conclusion of an incident, the officer shall document that in their report or CAD incident notes.

Deactivation of the body-worn camera shall occur when:

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- a) The officer's participation in the event has terminated;
- b) A citizen being recorded has requested that the officer cease recording, and the cessation of the recording does not compromise the investigation, and the officer believes that the request is due to reasonable privacy protection concerns of the individual;
- c) The officer moves into a situation or location covered in section (Non-Recording Events).

When deactivating their body-worn camera, officers should provide a verbal brief of the deactivation when possible before the deactivation. When possible the officer should make this verbal declaration in front of the resident.

426.6 NOTIFICATION OF RECORDING

Officers shall announce at the beginning of an interaction, or as soon as safe and practicable, that the conversation is being recorded, unless the announcement could be reasonably believed to cause jeopardy to the officer or any other person or that it would unreasonably impair a criminal investigation.

The notification should be included in the recording whenever possible.

Failure to provide, or the delay in a notification of recording shall be documented in relevant police reports or CAD incident notes. The documentation shall include at a minimum why the notification was not given or delayed.

426.7 NON-RECORDING EVENTS

Officers shall not utilize a body-worn camera system to intentionally surreptitiously record any person without a court order unless lawfully authorized by the Chief of Police, authorized designee, or as otherwise allowed by law as outlined in this policy.

Body-worn cameras will not intentionally be used to record in the following circumstances;

- a) In any location where individuals would have a reasonable expectation of privacy and there is no mandate to record a law enforcement encounter, such as inside police facilities, ie. department locker rooms, restrooms, break room, or a fitness room;
- b) Interviews with sexual assault victims
- c) During any time in which a patient is receiving a medical, healthcare provider, or psychological evaluation by a clinician or similar health care professional, or during treatment. This does not apply to any situation in which witnesses, victims, or suspects are being evaluated by paramedics, or while an officer is helping to restrain a patient;
- d) When recording in hospitals or other health care facilities, officers shall be careful to avoid recording persons other than the suspect or witnesses that are deemed relevant to the matter being investigated by the officer.
- e) Communications made in a psychiatric facility unless responding to a call involving a suspect who is thought to be present in the facility;

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- f) Communications between suspect and their legal representation that would have a reasonable expectation of protection under attorney-client privilege;
- g) Encounters with undercover officers or confidential informants;
- h) Encounters between officer and individuals with whom the officer is in a privileged relationship, such as their spouse, legal counsel, or police peer counselor;
- i) Casual communications with other officers or members of the police department;
- j) When delivering a death notification;
- k) While attending pre-scheduled community engagement events, such as Coffee with a Cop, Shop with a Cop, officers are not required to record these events. When engaged in non-scheduled community engagements, or community engagements that happen in the course of duty, officers have the discretion as to whether to record these interactions;
- l) When an officer is on break or is otherwise engaged in personal activities;
- m) During briefings, incident briefings, training, department meetings, tactical discussions, or tactical planning not related to an emerging incident;
- n) Places of worship or religious ceremony, without a reason for required activation;

Officers shall not utilize the body-worn camera system to collect or maintain information about the political, religious, or social views, associations, or activities of any individual, group, association, organization, corporation, business, or partnership unless such information directly relates to an investigation of criminal activities, and there are reasonable grounds to suspect the subject of the information is or may be involved in criminal conduct.

426.8 EXPLOSIVE DEVICE CONSIDERATIONS

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where the member is aware that an explosive device may be present.

426.9 PRIVACY CONSIDERATIONS

Officers should be sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the officer that such privacy concerns may outweigh any legitimate law enforcement interest in recording. If the officer believes the evidence collected of a recording in one of these scenarios would be beneficial to the overall investigation, the officer should attempt to gain the consent of the person before recording.

Examples of sensitive situations may include, but are not limited to;

- a) A witness or victim who wishes to remain anonymous or refuses to provide a statement if recorded and the encounter is non-confrontational;

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- b) Recordings that would jeopardize safety planning for a victim;
- c) Recordings that would disclose private security measures of residences or businesses;
- d) Recordings that would interfere with the ability to investigate due to sensitive circumstances, such as nudity, a victim of a sex crime, child abuse, and presence of child pornography.

426.10 REPORTING REQUIREMENTS

Officers shall document the existence of a recording when a police report is generated. In the instance where the body-worn camera malfunctioned or the member deactivated the recording before the event concludes, the officer shall document this information within a police report, or within the CAD incident notes if a police report is not generated.

Inadvertent recordings that are in the prohibited recording category should be documented in a report or within the CAD incident notes. If sensitive, privileged, or restricted activities are inadvertently recorded, a supervisor shall be notified immediately. The supervisor will in turn notify the Newberg-Dundee Police Department employee who is authorized to delete inadvertent recordings that do not meet the definition of public record under Oregon law. The supervisor will ensure the inadvertent recording is flagged and if a public records request is submitted for any of these recordings, the Newberg-Dundee Police Department administrative Sgt and above will determine whether the recording is subject to release based on legal parameters.

If a body-worn camera recording is generated during an assist to law enforcement from a different jurisdiction, the officer shall document the existence of the recording in a police report or appropriate CAD incident notes. The officer should notify the agency of the existence of the video evidence.

426.11 IDENTIFICATION AND PRESERVATION OF RECORDINGS

By the end of an officer's on-duty work shift in which they wore a body-worn camera the officer shall cause the following to occur:

- a) Docking the body-worn camera device and ensure it is properly charging and uploading;
- b) Each file shall be categorized, tagged, or marked with at a minimum the following data (some of the data may be completed automatically by the device);
 - a. Date and time;
 - b. Body-worn camera device identifier;
 - c. Assigned officer;
 - d. CAD or Case number.
- c) Officers should flag any recording of incidents in which some or all of the recorded data should not be released due to its sensitive nature, consistent with Privacy Considerations and Non- Recording Events.

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Anytime a member reasonably believes a recorded contact may be beneficial in a non-criminal matter, such as hostile contact, great public interest, and unique or unusual circumstances; the member should promptly notify a supervisor of the recording as soon as practicable, but no later than the end of their shift.

426.12 RETENTION OF RECORDS

All recordings shall be retained for a period in accordance with state records retention laws and consistent with the requirements of the City's records retention schedule but in no event less than 180 days. Recordings made from body-worn cameras no longer needed for a court proceeding, not subject to evidence or public retention, an ongoing criminal investigation, or for any current or future civil litigation shall not be retained for more than 30 months.

426.13 PROHIBITED USE OF BODY-WORN CAMERAS AND RECORDINGS

Officers are prohibited from using department-issued body-worn cameras for personal use and are prohibited from making personal copies of recordings created by any body-worn camera equipment. Officers are prohibited from retaining recordings of activities or information obtained using a body-worn camera. The only exception to this is pursuant to the recordings being obtained through a public records request.

Officers shall not allow individuals outside of the criminal justice system an opportunity to review a recording or still images produced by a body-worn camera, unless required or necessary during a criminal investigation or an internal department investigation. This prohibition includes the posting of any material or images to social media or other internet or media outlets. The only person authorized to distribute the material to media outlets or post on social media outlets is the Public Information Officer or other designees as authorized by the Chief of Police.

426.14 HANDLING AND RELEASE OF DIGITAL MEDIA/RECORDINGS

All body-worn camera system equipment and all data, images, video recordings, and metadata captured, recorded, or otherwise produced by the equipment is the property of the Newberg-Dundee Police Department.

Any contract with a third party vendor for data storage of recordings from body-worn cameras shall state that all recordings are the property of the Newberg-Dundee Police Department, not owned by the vendor, and cannot be used by the vendor for any purpose inconsistent with any policies or procedures of the Newberg-Dundee Police Department.

All electronic files created by the body-worn camera system will be stored maintained in a secure file storage location as approved by the Chief of Police, or their designee.

All requests for release of any recordings or data created by the body-worn camera system that is stored and maintained shall be processed in accordance with applicable law.

Prior to release pursuant to public records and other law enforcement agency requests, all recordings shall be reviewed by the Custodian of Records or their designee in the Newberg-

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Dundee Police Department Records Division. The Newberg-Dundee Police Department will ensure any release of body-worn camera recordings complies with applicable law. For those requirements refer to NDPD Lexipol Policy 805 Records Maintenance and Release. If any recorded digital media unreasonably violates a person's privacy or sense of dignity it should not be publicly released unless disclosure is required by law or by order of the court.

If a release of body-worn camera recording is to the media, the Chief of Police shall be notified prior to the release.

426.15 JUVENILES

It is recognized that recordings of juvenile offenders will occur by the use of body-worn cameras when officers are responding to calls for service or during the course of an investigation. If an officer has a need to use body-worn camera recordings of juvenile offenders as part of an investigation, the officer shall comply with state or any other applicable law.

426.16 REVIEW AND USE OF RECORDINGS/DIGITAL MEDIA

Officers shall have the option to use and review recordings created on their body-worn camera, and recordings on the other body-worn cameras that capture the officer's image and voice, as a resource in the following circumstances;

- a) Before preparing reports;
- b) Preparing to make or give a statement about the incident in which their body-worn camera created a record of;
- c) Before testifying in any forum;
- d) When reviewing their performance in an incident for improvement or critique to enhance future performance;
- e) When an immediate investigative need arises and the use of the recording or an image taken from the recording would reasonably improve service or response, such as the use of a screenshot of a suspect during an in-progress incident that could be sent out to the other members. If this does occur, it should be noted in a police report or CAD incident notes;

If an officer is involved or is a witness to a deadly force incident or an in-custody death that subjects the officer to an investigation, see section Deadly Force Incident for direction.

Officers shall not use the fact that a recording was made of an incident as a reason to write a less detailed report than would otherwise be expected. After an initial report is written, there may be circumstances when the Chief of Police, or their designee, may restrict access for viewing of a recording or digital media.

In certain incidents, an officer may review another officer's body-worn camera recordings as a resource to assist in preparing accurate reports. This is for situations when an officer requests to review the video from a body-worn camera, but the video is not from their body-worn camera or from a body-worn video from another officer that captures their image or voice. Before any

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review, a supervisor must authorize this, and this review and authorization must be documented in a police report.

Field Training Officers may use their trainee's body-worn camera recordings for training and documentation of performance purposes.

Members of the Newberg-Dundee Police Department who are conducting an official investigation, such as a personnel complaint, internal affairs, an administrative investigation, or criminal investigation may review recordings of officers' body-worn cameras with authorization from the Chief of Police or their designee.

Members of the Yamhill County District Attorney's Office or other prosecution organizations may review body-worn camera recordings pursuant to a lawful purpose concerning a criminal investigation or by court personnel who are otherwise authorized to review evidence in a related case.

Members of the media pursuant to a public records request or at the authorization of the Chief of Police, or their designee may review recordings of body-worn cameras.

Members at the rank of Captain or above may review any archived body-worn camera recordings or metadata at any time for a legitimate purpose as authorized by the Chief of Police or their designee. A random viewing without basis is not considered a legitimate purpose.

426.17 SUPERVISORS

Supervisors shall only review body-worn camera recordings that exist for any members when the recordings are determined to have captured information specific to the following circumstances:

- a) Any time the supervisor is investigating a complaint of alleged misconduct;
- b) During an Internal Affairs, Administrative Investigation or Criminal Investigation of a member;
- c) Following a force response, pursuit, or employee involved motor vehicle crash;
- d) Relating to reports of meritorious conduct;
- e) To address specific employee performance issues;
- f) At the request of, or consent from the officer who was wearing the body-worn camera;
- g) To identify recordings that would be a beneficial training tool.

Supervisors are not authorized to randomly review body-worn camera recordings to discover policy violations, to review the general performance of an officer, or for routine preparation of performance or evaluation reports.

Supervisors are however expected to review a random sampling of no more than two (2) recordings per quarter per direct report subordinates to ensure there is overall compliance with the intent and use of the body-worn camera consistent with law and policy. This is not intended for general performance review.

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Inadvertent discovery of misconduct during these permitted reviews shall require the supervisor to articulate the purpose of expanding the scope of the review in the misconduct inquiry/investigation reports.

A system to log and record information for who accessed archived recordings will be maintained.

When a supervisor is notified of a malfunctioning body-worn camera, the supervisor will ensure the body-worn camera is operational prior to re-deploying the device. If the supervisor is unable to deploy the body-worn camera, the supervisor should ensure the officer has a replacement body-worn camera prior to going back in service. If no additional body-worn cameras are available, in exigent circumstances, a Captain or Sergeant may authorize the officer to work without a body-worn camera for the remainder of their work shift.

If a supervisor responds to a critical incident, when safe and practical to do so, the supervisor shall retrieve the body-worn camera from the involved and witness officers at the scene. The supervisor will be responsible for assuring the digital media is uploaded. Following an incident involving the use of deadly force or in-custody death, or other identified critical incident, body-worn camera files may only be viewed before being uploaded when exigent circumstances exist, such as an officer being injured and to obtain identifying suspect information or other pertinent information from the body-worn camera files. Immediately upon upload, a supervisor shall categorize the recordings as "restricted".

426.18 A FORCE RESPONSE THAT RESULTS IN DEATH OR COULD REASONABLY RESULT IN DEATH, IN-CUSTODY DEATHS, AND OTHER CRITICAL INCIDENTS AS DESIGNATED BY THE CHIEF OF POLICE

Officers involved in, or witness to the use of deadly force or who are involved in or witness to an in-custody death investigation or other critical incidents who are subject to an interview or required to write a report, shall have the option and reasonable opportunity to view any body-worn camera recordings from their body-worn camera that captured the underlying incident. The officer shall also have the option and reasonable opportunity to view any other body-worn camera recordings from other officers that captured the involved officer's image or voice during the underlying incident and/or events that are subject to the investigation. A viewing will occur in a secure and private location in the presence of the member's legal representative before their interview and before giving a statement.

Body-worn camera recordings may only be viewed by personnel authorized to assist in an investigation or as authorized by the Chief of Police or their designee. In a major event described in this section, the Chief of Police or their designee may seek the expertise of a certified member of the force science or an equivalent organization. Any viewing will occur in a secure and private location as determined by the Chief of Police or their designee.

Body-worn camera videos that contain recordings of an officer's use of deadly force, an in-custody death, or other critical incidents shall be immediately categorized as "restricted" upon upload.

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Deactivation of the body-worn camera after an in custody death or force response that results in a death shall occur when the officer's participation has reasonably concluded and a supervisor has requested the officer to do so.

Investigators of the critical incident shall ensure these files have been fully and completely uploaded and that they have been restricted for access.

426.19 ADMINISTRATIVE INVESTIGATIONS AUTHORIZATION TO REVIEW

If an officer is subject of, or witness to an internal affairs or an administrative investigation in which body-worn camera recordings are available, the officer may have the option and reasonable opportunity to view any body-worn camera recordings from their body-worn camera that captured the underlying incident, prior to providing an administrative statement. The officers may also have the option and reasonable opportunity to view any other body-worn camera recordings from other officers that captured the involved or witness officer's image or voice during the underlying incident and/or events that are subject to the investigation, prior to providing an administrative statement. A viewing for subject officers will occur in a secure and private location, and the officer has the option of having their legal or labor representative present to review the recordings with them, before their interview and before giving a statement.

426.20 TRAINING

The Newberg-Dundee Police Department will ensure members who are subject to wearing body-worn cameras will receive training on department policies, operation, use, and care of the body-worn camera equipment. This training will be delivered as needed to provide adequate competencies on the system.

Recordings from body-worn cameras may be shown for training purposes when a criminal case or an administrative case has been completed. Body worn camera's may also be used during training scenarios for feedback to trainers and the officer's involved in those scenarios. All such use shall be pursuant to the written authority of the Chief of Police or their designee. Any members who are represented by video or audio in any of the recordings that are to be used for training will be provided with at least 14-days written notice that the recording is intended to be used for training. If involved members object to the use of the video, a determination of the use of the video will be made by the Chief of Police or their designee.

426.21 POLICY REVIEW

This policy will be reviewed regularly to ensure compliance with any laws, regulatory rules, and the Newberg-Dundee Police Department expectations regarding the use of body-worn cameras.